

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

CASSANDRA SIMON, SYDNEY TESTMAN,)
MIGUEL LUNA, ISABELLA CAMPOS,)
DANA PATTON, RICHARD FORDING AND)
THE ALABAMA STATE CONFERENCE OF)
THE NAACP,)
Plaintiffs,)
vs.)
KAY IVEY in her official capacity as) Case No. 2:25-cv-00067-RDP
Governor of Alabama and President Ex-Officio)
of the University of Alabama Board of Trustees,)
SCOTT PHELPS in his official capacity as)
President Pro Tempore University of Alabama)
Board of Trustees, MIKE BROCK, KAREN)
BROOKS, MYLA E. CALHOUN, RONALD)
GRAY, JEFF GRONBERG,)
O.B. GRAYSON HALL, JR., BARBARA)
HUMPHREY, W. DAVIS MALONE III,)
EVELYN VANSANT MAULDIN, HARRIS)
MORRISSETTE, J. STEVEN ROY,)
KENNETH SIMON, MARIETTA)
URQUHART AND KENNETH)
VANDERVOORT in their official capacities as)
members of the University of Alabama Board of)
Trustees)
Defendants.)

**NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF THE BOARD
DEFENDANTS' POST-HEARING BRIEF IN OPPOSITION TO PLAINTIFFS'
MOTION FOR PRELIMINARY INJUNCTION**

In their post-hearing briefs, the Parties set forth arguments regarding the Board's position that even if SB 129 is ruled unconstitutional, it would not be prudent for the Board to reopen or reinstate the Black Student Union and Safe Zone offices in the UA Student Center, UA's Division of Diversity, Equity and Inclusion, UAB's Office of Diversity, Equity, and Inclusion, and UAB's

Student Multicultural and Diversity Programs office. (Doc. 74 at p. 19, 39-41); (Doc. 75 at p. 42-47). *See also* (Doc. 74-1). On July 29, 2025—less than a week after the Parties submitted their briefs—the Department of Justice issued a new guidance memorandum titled *Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination*. (Attached hereto as Exhibit A). The guidance “clarifies the application of federal antidiscrimination laws to programs or initiatives that may involve discriminatory practices, including those labeled as Diversity, Equity, and Inclusion programs.” *Id.* at 1. This new guidance speaks directly to the Board’s concerns about reopening or reinstating the offices and programs listed above. For example, the guidance states that it would be an unlawful practice for “[a] university’s DEI initiative [to designate] a ‘safe space’ or lounge exclusively for students of a specific racial or ethnic group,” *id.* at 4, and that “[e]ven if access is technically open to all, the identity-based focus creates a perception of segregation and may foster a hostile environment” in violation of federal antidiscrimination laws, *id.* at 6.

Respectfully submitted this 5th day of August, 2025.

/s/ Jay M. Ezelle

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